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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FIRST APPELLATE DISTRICT**

**DIVISION FOUR**

In re N.S., a Person Coming Under the  
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

N.S.,

Defendant and Appellant.

A154808

(Contra Costa County  
Super. Ct. No. J1700850)

N.S. (Minor) appeals an order of the juvenile court requiring him to pay restitution to a crime victim. He contends the evidence does not support a finding that he is responsible for the victim's financial loss. We shall affirm the order.

**I. BACKGROUND**

The Alameda County District Attorney's office filed a juvenile wardship petition (Welf. & Inst. Code, § 602)<sup>1</sup> on July 11, 2017, and amended it on July 12, 2017. The first amended petition alleged Minor committed second degree robbery on July 5, 2017 (Pen. Code, § 211; count 1) and received a stolen vehicle on July 9, 2017 (Pen. Code, § 496d, subd. (a); count 2).

<sup>1</sup> All undesignated statutory references are to the Welfare and Institutions Code.

A minute order shows that on July 20, 2017, Minor admitted to an amended count one, attempted second degree robbery (Pen. Code, §§ 211 & 664) and count two was dismissed. The minute order recites in pertinent part: “The minor has waived his/her right to a trial, to remain silent, to confront and cross-examine witnesses, to subpoena witnesses (702.5 W&I); understands the nature of the conduct alleged in the petition and the possible consequences of an admission; the admission is made freely and voluntarily. There is a factual basis for the admission. The admission is made with consent of Counsel.” The juvenile court found Minor was a person described by section 602 and transferred the matter to Contra Costa County for disposition.<sup>2</sup> The Contra Costa County juvenile court adjudged Minor a ward of the court.

According to the July 12, 2017 probation intake report, the victim of the offense told police officers he arrived at a fitness center at 4:10 a.m. on July 5, 2017. He got out of his car, and approaching him from behind he saw an African American male who appeared to be in his 20’s, about five feet eight inches tall, with a skinny build, and wearing a black hoodie pulled over his head. The person demanded the victim’s car keys and pulled up his shirt, showing the handle of a semiautomatic handgun tucked into his waistband. The victim handed him his car keys, and the first male and another person began searching through the car. The victim went into the fitness center, and he saw one of the suspects drive away in his car and the other suspect drive away in another car. When police arrived, the victim said he was not sure he would be able to identify the suspects if he saw them again. He said his wallet, containing his driver’s license, social security card, and approximately \$700 in cash, was in the car.

Four days later, police officers found several vehicles, all near each other, that had been carjacked. (Pen. Code, § 215.) One of them belonged to the victim of the July 5, 2017 offense. Minor was found in the victim’s car with two other people. The victim was called to the scene to retrieve his car, and he saw several suspects. It appears that officers were conducting a field showup, but there is no indication they asked the victim

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<sup>2</sup> The record on appeal contains neither a second amended petition nor a transcript of the July 20, 2017 hearing.

to identify anyone. He spontaneously said that Minor was the person who had carjacked him. One of the other suspects on the scene, who had been in another of the carjacked cars, said that he was present at the July 5 carjacking and saw two other people—Julius M. and Damian S.—approach the victim and demand his vehicle.

The victim estimated his losses as \$1,500 to \$1,810. A restitution hearing took place on June 18, 2018. The juvenile court ordered Minor to pay \$1,500 in restitution. Minor appeals from this order.

## **II. DISCUSSION**

Section 730.6 authorizes a juvenile court to order restitution to “a victim of conduct for which a minor is found to be a person described in Section 602 who incurs an economic loss as a result of the minor’s conduct.” Minor contends the evidence is insufficient to support a finding he was at the scene when the victim’s car was taken.

“ “The standard of review of a restitution order is abuse of discretion . . . .  
“Where there is a factual and rational basis for the amount of restitution ordered by the trial court, no abuse of discretion will be found by the reviewing court.” ’ [Citations.]”  
. . . “In reviewing the sufficiency of the evidence [to support a factual finding], the  
“power of the appellate court begins and ends with a determination as to whether there is any substantial evidence, contradicted or uncontradicted,” to support the trial court’s findings.’ [Citations.] Further, the standard of proof at a restitution hearing is by a preponderance of the evidence, not proof beyond a reasonable doubt.” ’ ” (*People v. Sy* (2014) 223 Cal.App.4th 44, 63 (*Sy*); see *In re S.O.* (2018) 24 Cal.App.5th 1094, 1099 [factual findings supporting restitution are reviewed for substantial evidence].)

Substantial evidence to support the restitution order is present here. The victim of the crime identified Minor spontaneously when he went to retrieve his car. The amended petition alleged Minor had committed robbery against the victim on July 5, 2017, and Minor admitted to a reduced charge of attempted robbery and stipulated that there was a factual basis for the admission. The juvenile court could properly find Minor was responsible for the victim’s economic losses.

Minor points out that the victim saw the perpetrators only briefly, before daylight; that the victim originally said he was not sure he would be able to identify the perpetrators; that he identified Minor several days after the crime, while a field showup was taking place, rather than in a lineup (see *People v. Sandoval* (1977) 70 Cal.App.3d 73, 85 [noting suggestive nature of single person showup]; *People v. Odom* (1980) 108 Cal.App.3d 100, 110 [unfairness of suggestive in-field identification offset by likelihood that prompt identification will be more accurate than one made days or weeks later]); and that none of the other people involved said Minor participated in the July 5, 2017 incident. But the question before us is whether there is evidence to support the finding the juvenile court made, not whether the evidence might have supported a contrary finding. (*Sy, supra*, 223 Cal.App.4th at p. 63.) The evidence is sufficient to support the order.

### **III. DISPOSITION**

The June 18, 2018 restitution order is affirmed.

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TUCHER, J.

WE CONCUR:

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POLLAK, P. J.

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STREETER, J.

*People v. N.S.* (A154808)